

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,) 8:05CR233
Plaintiff,)
vs.) ORDER
GILBERTO VERDUGO GUTIERREZ,)
Defendant.)

This matter is before the court on the motion for a continuance of the suppression hearing scheduled for November 6, 2007, by defendant Gilberto Verdugo Gutierrez (Gutierrez) (Filing No. 25). Gutierrez's counsel represents that counsel for the government has no objection to the motion. Gutierrez's counsel represents that Gutierrez will file an affidavit wherein he consents to the motion and acknowledges he understands the additional time may be excludable time for the purposes of the Speedy Trial Act. For good cause shown, the motion will be granted.

IT IS ORDERED:

1. Defendant Gutierrez's motion for a continuance of the suppression hearing (Filing No. 25) is granted.
2. The hearing on Gutierrez's motion to suppress (Filing No. 16) is **continued to December 21, 2007, at 9:00 a.m.** Defendant shall be present for the hearing.
3. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **October 30, 2007 and December 21, 2007**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason defendant's counsel requires additional time to adequately prepare the case, taking into consideration due diligence of counsel, and the novelty and complexity of this case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED this 30th day of October, 2007.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge